

## SUBCHAPTER H—ENFORCEMENT PROVISIONS

### PART 4067—RECOVERY OF LIABILITY FOR PLAN TERMINATIONS

AUTHORITY: 29 U.S.C. 1302, 1367.

SOURCE: 61 FR 34082, July 1, 1996, unless otherwise noted.

#### § 4067.1 Cross-reference.

Section 4062.8 of this chapter contains rules on deferred payment and other arrangements for satisfaction of liability to the PBGC after termination of single-employer plans.

### PART 4068—LIEN FOR LIABILITY

Sec.

4068.1 Purpose; cross-references.

4068.2 Definitions.

4068.3 Notification of and demand for liability.

4068.4 Lien.

AUTHORITY: 29 U.S.C. 1302(b)(3), 1362–1364, 1367–1368.

SOURCE: 61 FR 34083, July 1, 1996, unless otherwise noted.

#### § 4068.1 Purpose; cross-references.

This part contains rules regarding the PBGC's lien under section 4068 of ERISA with respect to liability arising under section 4062, 4063, or 4064 of ERISA.

#### § 4068.2 Definitions.

The following terms are defined in § 4001.2 of this chapter: ERISA, PBGC, person, plan, and termination date.

*Collective net worth of persons subject to liability in connection with a plan termination* has the meaning in § 4062.2.

#### § 4068.3 Notification of and demand for liability.

(a) *Notification of liability.* Except as provided in paragraph (c) of this section, when the PBGC has determined the amount of the liability under part 4062 and whether or not the liability has already been paid, the PBGC shall notify liable person(s) in writing of the amount of the liability. If the full liability has not yet been paid, the notification will include a request for pay-

ment of the full liability and will indicate that, as provided in § 4062.8, the PBGC will prescribe commercially reasonable terms for payment of so much of the liability as it determines exceeds 30 percent of the collective net worth of persons subject to liability in connection with a plan termination. In all cases, the notification will include a statement of the right to appeal the assessment of liability pursuant to part 4003.

(b) *Demand for liability.* Except as provided in paragraph (c) of this section, if person(s) liable to the PBGC fail to pay the full liability and no appeal is filed or an appeal is filed and the decision on appeal finds liability, the PBGC will issue a demand letter for the liability—

(1) If no appeal is filed, upon the expiration of time to file an appeal under part 4003; or

(2) If an appeal is filed, upon issuance of a decision on the appeal finding that there is liability under this part.

The demand letter will indicate that, as provided in § 4062.8, the PBGC will prescribe commercially reasonable terms for payment of so much of the liability as it determines exceeds 30 percent of the collective net worth of such persons.

(c) *Special rule.* Notwithstanding paragraphs (a) and (b) of this section, the PBGC may, in any case in which it believes that its ability to assert or obtain payment of liability is in jeopardy, issue a demand letter for the liability under this part immediately upon determining the liability, without first issuing a notification of liability pursuant to paragraph (a) of this section. When the PBGC issues a demand letter under this paragraph, there is no right to an appeal pursuant to part 4003 of this chapter.

#### § 4068.4 Lien.

If any person liable to the PBGC under section 4062, 4063, or 4064 of ERISA fails or refuses to pay the full amount of such liability within the time specified in the demand letter issued under § 4068.3, the PBGC shall have a lien in the amount of the liability, including interest, arising as of the

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plan's termination date, upon all property and rights to property, whether real or personal, belonging to that person, except that such lien may not be in an amount in excess of 30 percent of the collective net worth of all persons described in section 4062(a) of ERISA and part 4062 of this chapter.

### **PART 4071—PENALTIES FOR FAILURE TO PROVIDE CERTAIN NOTICES OR OTHER MATERIAL INFORMATION**

Sec.

4071.1 Purpose and scope.

4071.2 Definitions.

4071.3 Penalty amount.

AUTHORITY: 28 U.S.C. 2461 note, as amended by sec. 31001(s)(1), Pub.L. 104-134, 110 Stat. 1321-373; 29 U.S.C. 1302(b)(3), 1371.

SOURCE: 62 FR 36994, July 10, 1997, unless otherwise noted.

#### **§ 4071.1 Purpose and scope.**

This part specifies the maximum daily amount of penalties that may be assessed by the PBGC under ERISA section 4071 for certain failures to provide notices or other material information, as such amount has been adjusted to account for inflation pursuant to the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996.

#### **§ 4071.2 Definitions.**

The following terms are defined in § 4001.2 of this chapter: ERISA and PBGC.

#### **§ 4071.3 Penalty amount.**

The maximum daily amount of the penalty under section 4071 of ERISA shall be \$1,100.